

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DANIEL JAMES DRIEHORST,

Plaintiff,

v.

**ANDREW SAUL,
Commissioner of Social Security,**

Defendant.

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Case No. CIV-18-433-G

ORDER

On September 23, 2019, the Court entered an Opinion and Order and a Judgment reversing the decision of the Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 23, 24. Plaintiff Daniel James Driehorst now requests an award of attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.’s Mot. Att’y Fees (Doc. No. 25). Defendant has responded that he has no objection to the requested fee award. *See* Def.’s Resp. (Doc. No. 26).

Having considered Plaintiff’s unopposed request and the relevant record, the Court finds that: “(1) [P]laintiff is a ‘prevailing party’; (2) the position of the United States was not ‘substantially justified’; and (3) there are no special circumstances that make an award of fees unjust” in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff’s request (Doc. No. 25) and awards fees in the amount of \$4857.20, with said amount to be paid directly to Plaintiff and sent in care of Gayle L. Troutman, 1350 S. Boulder Avenue, Suite 410, Tulsa, Oklahoma 74119. If attorney’s fees are also awarded under 42 U.S.C. § 406(b),

Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 3rd day of January, 2020.



CHARLES B. GOODWIN
United States District Judge